



CITY OF West Linn

PLANNING COMMISSION

Minutes of October 1, 2014

Members present: Chair Christine Steel, Lorie Griffith, Jesse Knight and Ryerson Schwark
Members absent: Vice Chair Russell Axelrod and Nancy King
Staff present: Chris Kerr, Community Development Director; John Boyd, Planning Manager; Dan Olson, City Attorney; and Megan Thornton, Assistant City Attorney

PREHEARING WORK SESSION

Chair Steel convened the work session at 6:00 p.m. in the Willamette Room of City Hall. Rob Morgan, Michael Robinson, Mike Mahoney, and Karie Oakes were also present. Staff advised about procedure in general and procedural options in regard to emails from Vice Chair Russ Axelrod and Commissioner Griffith related to ZC-14-01/PLN-14-01. They discussed the schedule.

REGULAR MEETING - CALL TO ORDER

Chair Steel called the meeting to order in the Council Chambers of City Hall at 6:30 p.m.

PUBLIC COMMENT

► **Roberta Schwarz, 2206 Tannler Dr.**

Ms. Schwarz discussed the situation in the Mapleton-Nixon area. It demonstrated that Commissioners' votes had real consequences. They should vote as if each application site was in their own neighborhood.

► **Teri Cummings, 2190 Valley Ct.**

Ms. Cummings asked the Commissioners to hold their work sessions in the Council Chambers. People who wanted to attend their work session had been locked out of the room downstairs.

► **Karie Oakes, 1125 Marylhurst Dr.**

Ms. Oakes asked staff to do a better job of educating and accommodating the public at hearings. She related the work session room had barely enough chairs for those who did attend and there had been a bottleneck around the information and testimony forms table.

PUBLIC HEARINGS

ZC-14-01/PLN-14-01, Amend the Comprehensive Plan map designation from "Commercial" to "Medium-high Density Residential" and change the zoning map designation from "OBC" to "R-2.1"

Link to the case file including reports, exhibits and written testimony:

<http://westlinnoregon.gov/planning/nw-corner-blankenship-tannler-drive-zone-change-and-comp-plan-zoning-map-change>

Chair Steel opened the public hearing. Mr. Olson outlined the applicable criteria and procedure. No conflicts of interest or bias were declared. Declarations were that Commissioners Schwark, Griffith, Knight and Chair Steel each reported making a site visit; Chair Steel and Commissioner Griffith had driven by together and talked about the zoning of different areas surrounding the site; and, each of the Commissioners present reported receiving an email from Vice Chair Axelrod, which Mr. Olson clarified was on page 10 of the material distributed with the October 1 Staff Memorandum. Each indicated it did not bias them. Commissioner Griffith reported email communications with staff and the Commissioners in regard to what R2.1 zoning meant.

Michael Robinson, Perkins Coie, LLP, representing the applicant, asked the Commissioners who had visited the site if they had learned anything that parties to the hearing should be aware of that would influence their decision. Chair Steel related she had looked at the environment of the site. Commissioner Knight had just visually confirmed its location. Commissioner Schwark had driven into the office complex next door to the site and from there walked onto the site, noting the steepness of the property created development challenges and was very tired. Commissioner Griffith recalled there were good views because the property was so steep.

Mr. Robinson stated that the applicant did not object to Vice Chair Axelrod's email. They wanted to preserve their right to object to his participation in the hearing if and when the hearing was continued and he was going to participate.

Staff Report

Mr. Kerr discussed the aerial photograph pointing out the surrounding uses, the slope toward Blankenship, and the tree canopy. The parcel was undeveloped and zoned Office Business Center (OBC). An office development had been approved in 2006 but never built. The request was to change 10.1 acres of the 11.41 acre parcel to R2.1. 1.2 acres would remain OBC.

Mr. Kerr noted the staff report and findings detailed why staff recommended approval. He highlighted that what was proposed was consistent with the Comprehensive Plan and state and regional legislation. The City and the region currently had an oversupply of land for office use. The proposal represented a decrease in vehicular traffic compared with what a reasonable development scenario under existing zoning would generate. The related traffic study was in the record. The City had a need for multifamily housing; an overall need for a variety of commercial uses; and a variety of housing needs.

Staff advised that the applicant could build the same number of multifamily units under both current and proposed zoning, but the layout would be different. OBC zoning required a vertical, mixed use, layout with the commercial component on the ground floor. The proposed layout kept commercial in front and at the intersection and placed multifamily units behind it. R2.1 zoning still allowed a plethora of different commercial uses as conditional uses. He advised that Comprehensive Plan policies addressed where to put OBC and where to put multifamily and those areas overlapped. The challenge here was how to balance them. Staff's rationale was that this had been vacant property for 35 years and was vested for almost 300,000 s.f. of office use that had never been built. This was an opportunity to meet a need in the

community for multifamily use. The location was appropriate for multifamily and there was overlap with commercial. There was an economic development aspect that providing housing behind the existing OBC at the intersection seemed to be a more appropriate place to have commercial instead of putting it further back in the site. The residents would support local businesses.

Applicant

Michael Robinson, Perkins Coie, LLP, 1120 NW Couch St., 10th Floor, Portland (97209); Rob Morgan and Mike Mahoney, ConAm Properties, LLC., 3990 Ruffin Rd., Ste. 100, San Diego, CA (92123); Brendon Buckley, Johnson Economics, LLC, 621 SW Alder St., Ste. 605, Portland, OR 97205; and Brent Ahrend, Mackenzie, 1515 SE Water Ave., Ste. 100, Portland (97214) represented the applicant.

Mr. Morgan said the applicant would develop a high quality multifamily community. They had considered developing it under OBC zoning above first floor commercial, but were concerned the commercial component would not have enough visibility due to topography and placement within the development. They were aware that type of vertical mixed use development was typically not successful in suburban communities. They proposed to concentrate the commercial uses along Tannler and Blankenship where it would be more visible and successful and keep that portion OBC.

The applicant's representatives talked about why the application met the approval criteria. The City had a need for multifamily housing and there was lack of demand for office use. The project would benefit the City in terms of SDCs, property tax revenue and the millions the residents would spend at local businesses. It would generate roughly half the traffic the previous office approval would generate. They agreed with the staff report and conclusion.

In regard to the reduction in vehicle trips they referred to Exhibit 19 Trip Generation table pointing out a 65% reduction in peak hour trips generation (400 OBC trips versus 140 R2.1 trips if they developed 210 units).

Mr. Robinson discussed some issues that had already come up. He submitted copies of the City's hearing procedure and criteria and pages from the Comprehensive Plan. The Commission was to base the decision on the criteria and evidence, not the number of people for or against, or on personal interest. Seeking citizen involvement in community planning did not mean citizen opposition to something should carry the day. This was not piecemeal planning. What might be built on the site was not and could not legally be part of the zone and map amendment application and was not applicable approval criteria. The applicant had provided a conceptual site plan/some building designs during the preapplication stage because staff asked for it but they were not part of this application. The Comprehensive Plan could be amended if the application met the applicable criteria. They did not need to wait for some other kind of planning process.

Mr. Robinson indicated that if the applicant developed the almost 300,000 s.f. of office use that had previously been approved there would be far more traffic and significantly more square footage than if the site was developed for 210 R2.1 residential units. He pointed out they were

designating three acres on the north with most of the tree canopy and significant trees open space that would buffer the few single-family homes on the north. The trail system there would link to the park. He contrasted a potential apartment development on the site which would have smaller footprints; have less visible and partially underground parking; and have more green space with the office project to the west. He advised this was a very good site for multifamily residential as it was next to and close to shopping; close to only a few single-family homes to the north with an open space buffer; next to the park and trail system; and had good vehicular access which would not be worsened because of the reduced traffic and transit availability.

PowerPoint slides outlined aspects of the proposal, including the applicant's concern that OBC zoning was not clear so they were not sure it was feasible to develop under OBC; that vertical mixed use typically succeeded in city center areas or those adjacent to light rail (for example, Orenco); that only a few single-family homes abutted the site on the north and were buffered by open space area and slope; that staff agreed the application met the approval criteria including that it met Comprehensive Plan policies and factors related to the location of medium-high residential density designation; that mixed use potential was still maintained, but as horizontal instead of vertical mixed use; and that Comprehensive Plan Goal 9 related to economic preservation of existing commercial areas did not include this site.

Mr. Robinson advised that the applicant had satisfied CDC 105.050.B by providing an economics analysis showing things had changed and it would be a mistake to leave the site zoned OBC. Written testimony from Johnson Economics and real estate broker George Diamond explained the lack of demand for office space and the demand for residential units. There was a 20 year land supply for commercial; in excess of a 40 year land supply for office; and limited availability of land for multifamily that resulted in higher rental rates. There had been no development activity on the site even though the previously approved development approval had been extended. There was just no market for suburban Class A office space as the market preferred urban centers. The Class A office space to the west had a 30% vacancy rate and Kruse Meadows had whole buildings sitting vacant up until this year. They had satisfied CDC 105.050.C by demonstrating there was a public need for additional multifamily land and the applicant was ready to develop a project that would provide additional inventory of multifamily units. The change would not adversely affect the health, safety and welfare of the community because of the size and location of the site; the buffering; the distance from most single-family residences; and because R2.1 development would generate fewer vehicle trips and thus use less intersection capacity. If the application was approved the applicant would do a traffic impact study for a specific multifamily project and make the necessary related offsite improvements. Mr. Robinson concluded that the applicant had successfully demonstrated they had met the approval criteria. They asked the Commission to recommend approval. He indicated they agreed with leaving the record open so additional testimony could be submitted.

Public Testimony

Michael Selvaggio, 1790 5th Ave., President of the Willamette Neighborhood Association, discussed why they had passed a resolution to ask the City not to rezone the site. One factor

was their concern about stresses on infrastructure. They asked for a full traffic impact analysis, citing the criteria in CDC 98.100, OAR 660-012-0060, and Comprehensive Plan policies which called for a transportation impact analysis when traffic was significantly impacted. They were concerned that the rezone was contrary to and would impact the City's ability to carry out the Transportation System Plan (TSP) and Comprehensive Plan policies related to the importance of maintaining commercial area of the City and traffic abatement. They asked that the traffic analysis be done prior to a rezoning decision instead of during development review. Mr. Selvaggio contrasted the applicant's and staff's approach of comparing traffic after a zone change with traffic that was the maximum allowed by current zoning with the state administrative rule, which based 'significant impact' on projected conditions. He indicated traffic would come based on a lot of economic and social factors which had not been considered. He reasoned that if there was really no demand for office then, under the OAR standard of 'projected conditions,' traffic would actually be a lot lower under OBC zoning. He pointed out in the staff report that their recommendation was in accordance with WNA vision statement was incorrect.

Charles Matthews, 2305 Crestview Dr., who served on the board of the Ridgeview Homeowners Association, testified that they had voted to oppose the proposed rezone because it would directly impact their health, safety and welfare. Their concern was primarily traffic congestion during all hours, not just peak hours.

Liz Zuanich, read aloud a portion of the October 1, 2014 letter from Lloyd Hill, Hill Architects, 1750 Blankenship Road. He supported strategically located and well-designed mixed use pedestrian oriented developments. He advised using the site for high density residential development would be compatible with the existing uses and offer the benefit of more residents within easy walking distance of local businesses. It could reduce traffic impacts and reliance on automobiles.

Ed and Roberta Schwarz, 2206 Tannler Dr.; Scott Etheredge, 1945 Taylor Ct.; and Ken Pryor, 2119 Greene St., each discussed aspects of their written testimony, 'ConAm Application for Approval of a Concurrent Comprehensive Plan Map and Zoning Map Amendment, ZC-14-01/PLN-14-01' dated September 30, 2014. Mr. Schwarz also reported that he and others had not been able to attend part of the prehearing work session because of a locked door.

Mr. Schwarz testified that they opposed the application. It did not meet Comprehensive Plan criteria for medium-high density residential lands which was that existing facilities were to have the capacity to support additional development and that there were no development limitations such as topography. They held the intersection was already functioning beyond capacity and additional traffic would make the situation worse. They noted the applicant had not provided the required 'proof of change' in the community or demonstrated there was an error/inconsistency in the Comprehensive Plan or zoning map. They indicated that the owner's inability to develop the site under OBC in the years since the previous approval was due to economic conditions – not any changes in the neighborhoods or mistakes in Comprehensive Plan or zoning.

Ms. Schwarz requested that the hearing be continued to a date after October 15th. She noted OBC zoning allowed fourteen other uses besides office use. The City should not approve the proposal just because the property owner's opportunity to develop the site as office had gone bad and he did not have the monetary resources to go forward with development with other OBC uses. She indicated the requested change was contrary to Comprehensive Plan policy to encourage the economic vitality of the four existing commercial areas. She noted the two most affected neighborhood associations had each passed resolutions opposing a change in zoning.

Mr. Etheredge contended the applicant had misrepresented that 208 units would add 44 students to the local school district. Based on the district's calculation method it would add 98 more students to an already strained district. He said Goal 12, Policy 14 to improve traffic safety was not met. The intersection was already Level of Service F. He noted the traffic findings for this application did not mention that no left turn from Tannler onto Blankenship had been approved as part of the previous approval and ODOT had said they would not allow a traffic light at Tannler/Blankenship. Multifamily would generate traffic that would affect the flow of traffic to and from I-205 ramps. A Metro survey showed 80% of Metro residents preferred to live in single-family detached housing.

Mr. Pryor referred to the City's focus on economic development and business retention and recruitment. He questioned changing developable business property to residential housing. He noted TVF&R had not yet weighed in on a 208 unit apartment development. One Savanna Oaks Neighborhood Association goal was to improve traffic flow in the 10th Street corridor. He held the current proposal and another one which would follow would lead to increased congestion in the corridor and be contrary to that goal. The WNA plan called for well thought out neighborhood planning that sustained the value of the land. Lower value apartment housing would reduce the value of existing single-family housing in the neighborhood and mean lower tax revenue. He questioned why the City should change zoning every time market conditions changed. He suggested both future apartment and future commercial traffic impacts should be taken into account.

Teri Cummings, 2190 Valley Ct., related that a Bridgeport theater owner had confirmed that lack of good transportation and parking for the area was affecting her business. She said the City should not approve the application without a full transportation impacts analysis because they knew 10th Street had been problematic for a long time. People might not be willing to go back to the area once they experienced it. She noted they had heard from two neighborhoods. West Linn had an extremely low balance of commercial and industrial lands. She cautioned against taking any of that land out without good reason. There had been some unfortunate economic situations since the downturn and a recovery was taking place. What different businesses would do with the opportunity on this site remained to be seen. They should not just put it into residential use as they might regret it in the future.

Karie Oakes, 1125 Marylhurst Dr., asked the Commission to continue the hearing so more people could participate and not just leave the record open. She supported keeping the existing zoning. She indicated the Comprehensive Plan vision was long term and it should not be changed because of the applicant's current economic situation. She contrasted that the

applicant had said there was no need for office space in the city, but the City was planning to build office space in the Arch Bridge project. The staff report was clear that the developer could have the same amount of residential units under OBC. It would just look different. The Metro study indicated people did not want to see big boxes of housing. This could be an aesthetically-pleasing, OBC-zoned, office/residential mixed use development where people could live above their businesses. She pointed out two neighborhood associations were present.

Jeff Parker, 1800 Blankenship, the property owner, said he owned three office buildings west of the site. He had approval for 289,000 s.f. of office on the site since 2007. Demand for such a project was very poor and there was no sign that would change, especially in this type of suburban location. His office building next door struggled to get to below 30% vacancy. The rents were substantially lower and the vacancy rate was significantly higher than was needed to justify new commercial construction. He had looked at alternate OBC uses to office use but had been unsuccessful due to site configuration and topography. He believed this was a great project for the City given the limited demand for use of the OBC zone and would benefit the community. Traffic would be substantially reduced compared to current OBC zoning. The proposal fulfilled the need for more affordable housing. It would leave the Blankenship frontage for commercial development. The new residents would patronize local businesses. The additional SDCs and taxes would support local government and schools and the project would create jobs. He recommended approval.

Rick Mooney, 2305 Falcon Dr., opposed the zone change. He was concerned about traffic. He advised the intersection was very dangerous. The residential development would mean more people and children would be walking across. The Commission should consider the traffic concern and evaluate the true impact.

Gregg Stults, 2120 Alpine Dr., opposed the application. He asked the Commission to keep the here-and-now, on-the-ground, reality for people in West Linn in mind. When the applicant talked about a reduced impact to the transportation system they were comparing a worst-case, hypothetical, scenario under current zoning. They were using generalized traffic flow numbers that were only about maximum capacity at certain hours of the day when a residential development generated a much more constant flow. He advised that commercial use traffic would come and go from the site in the opposite direction than residents coming and going from the neighborhood. However, adding over 200 residential units would generate more residential traffic in the same direction and contribute to the existing bad situation at the intersection. Before they approved any zone change he asked the Commission to require a thorough traffic study to be completed by an independent third party and have the applicant commit to funding any traffic management improvements recommended by the study. He indicated that changes such as what was proposed should only be approved if the community benefits were significant and maintained the high quality of life that West Linn currently enjoyed and the negative impacts were minimal. He held they were large and negative.

Gianncarlo Cargni, 2428 Remington Dr., opposed the application. He indicated he did not believe the developers of his area and existing surrounding areas had anticipated a high-density

apartment complex on the corner. The site had been zoned OBC in 1984 in order to have an office building there. The property owner should consider that and the people who lived around it.

Commissioner Schwark **moved** to continue ZC-14-01/PLN-14-01 to October 15, 2014 at 6:30 p.m.; leave the record open for written testimony and evidence until October 8, 2014 at 5:00 p.m.; allow the applicant to submit written responses to that until Friday, October 10, 2014 at 5:00 p.m.; and have the applicant's oral rebuttal on October 15. Commissioner Griffith **seconded** the motion and it **passed** 4:0.

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CDC-14-02, Code Maintenance. Community Development Code amendments to provide consistency with the Oregon Revised Statutes and Oregon Administrative Rules, make corrections, re-organize information, and clarify other CDC provisions.

Chair Steel opened the public hearing and outlined the applicable criteria and procedure. No declarations were made. No one challenged any commissioner's ability to hear the matter.

Staff Report

Mr. Boyd outlined the changes the Commission had requested at their work session. He and the Commissioners discussed the following issues in greater depth.

Issue No. 7. Strike the provision which prohibited home occupations related to firearms, explosives, dangerous weapons or hazardous materials. Commissioner Schwark asked if they could exclude firearms (and ammunition) and keep the rest of the provision to protect neighbors. Staff advised they recommended deleting the provision in order to meet state law regarding what local jurisdictions could not regulate, which included a field pre-emption for regulating firearms and ammunition except in specific areas such as public buildings. That was because the state had its own very comprehensive regulations about them. They assumed the state controlled handling of hazardous materials through a certification process. They noted the Municipal Code regulated permitting of businesses.

Issue No. 11. Clarify the definitions of Type I – IV Lands to remove overlap and address items in CDC and Natural Hazard Mitigation Plan. Mr. Boyd pointed out staff had corrected slope ranges, which had been transposed on the previous draft and had caused some confusion.

Issue No. 15: Consolidation of proceedings. Mr. Boyd reported that he and the Assistant City Attorney had rewritten this so it made more sense, as the Commission had requested.

Issue No. 17: Quasi-judicial decision process. This process had been changed, as the Commission had requested, to include the Planning Commission.

Issue No. 19: Re-organize Lot Line Adjustment section to clearly define criterion for approval. Reference ORS 92 definitions, and update information. Staff had included the statute language, so the Commissioners could see the proposed amendment was consistent with it.

Issue No. 23: Utilities and the following listed uses are not structural, are often completed by developers when extending utilities. Needs simplification. Mr. Boyd recalled the Commissioners

had asked for more information to help them understand the proposed amendment. This now clarified what was a minor utility. He reported on the differences in sizes of smaller domestic service lines; larger primary feeder lines; and the main water service lines that fed the distribution lines. He clarified the CDC already required undergrounding utilities.

Staff had added Attachment 1 with corrections to the section on Types I-IV and the rewritten section, Consolidation of proceedings.

Public Testimony

Ed Schwarz, 2206 Tannler Dr., asked the Commission to retain the requirement to notify neighborhood organizations using certified mail (Issue No. 25). It would ensure the neighborhood received adequate notice and the applicant would be able to prove they received it.

Teri Cummings, 2190 Valley Ct., explained that she had not seen the copy the Commissioners referred to with red ink, so they should not ascribe her silence on some matters as agreement. She questioned why they would remove the requirement to post the Planning Director's decisions in the newspaper. Some in the community might not be noticed that way. She recommended they not strike the requirement that the applicant was to send notice to the neighborhood association via certified letter. LUBA was very particular about proper notice and procedure. It was very helpful for both the neighborhood and the applicant to have a verifiable record of when notice was received.

Kari Oakes, 1125 Marylhurst Dr., did not support striking the certified mail requirement. Her neighborhood association had submitted the resolution asking the city not to weaken the rights of neighborhood associations. It was in the Cut the Red Tape legislation record. They had specifically discussed the current proposal to strike the certified letter provision at their last meeting. The certified letter was stronger assurance they would receive notice. She personally questioned the contention that striking it simplified matters.

Staff response to testimony

Mr. Boyd clarified the certified mail issue (Issue No. 26) was not about notice, but about how the applicant was to send their letter asking the neighborhood association to place the matter on their agenda. In regard to the requirement to post the Planning Director's decisions in the newspaper (Issue No. 10) it was costly and not necessary because the decision was sent to the adjacent and impacted property owners and affected districts. He clarified that people could look and find all proposed land use actions on the webpage, which featured an interactive map.

Deliberations

Chair Steel closed the public hearing. Commissioner Schwark commented that he was comfortable with notifications going out by normal mail because he had not had a letter lost in 30 years.

Commissioner Schwark **moved** to recommend approval of CDC-14-02 as modified by Attachment 1 to the City Council. Commissioner Griffith **seconded** the motion and it **passed** 4:0.

ITEMS OF INTEREST FROM THE PLANNING COMMISSION

None.

ITEMS OF INTEREST FROM STAFF

Mr. Kerr reminded them of the upcoming joint work session with the City Council.

ADJOURNMENT

There being no other business, Chair Steel adjourned the meeting at approximately 9:20 p.m.

APPROVED:

Christine M Steel
Christine Steel, Chair

12-3-14
Date